

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 02-0523P
Adjusted Gross Income Tax
For Calendar Year 1999

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer failed to remit its entire tax liability by the due date of the return for calendar year 1999. The department issued a penalty billing and interest billing.

I. **Tax Administration** – Penalty

DISCUSSION

Taxpayer's representative in a letter dated July 2, 2002 states that the taxpayer's 1998 return resulted in an overpayment amount of \$2,486 that was recorded on Line 17. And on line 18 for the "Amount from line 17 to be refunded: it recorded "none" because it wished to have the overpayment applied to the following year's return. The instructions did not indicate that an overpayment could not be applied to the following year. When it prepared the taxpayer's 1999 Form IT-10S, it carried over the 1998 overpayment credit. At the time, it was not aware that the Department had refunded the taxpayer the 1998 overpayment. This discrepancy caused a late payment of the 1999 tax liability of \$1,823 in addition to a penalty of \$182.20 and interest of \$181.30. After the tax notice was received the taxpayer issued a check in the amount of \$1,823 for the 1999 tax liability. Taxpayer requests a penalty and interest waiver.

Taxpayer was issued a refund for the amount of tax overpaid in 1998 because there is no provision to carry an overpayment forward. The result was a shortage in the 1999 tax year. The taxpayer has not provided reasonable cause to allow a penalty waiver and the Department has no authority to waive interest.

FINDING

Taxpayer's protest is denied.